

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of THOMAS L. BIROSCAK and U.S. POSTAL SERVICE,
POST OFFICE, Stratford, Conn.

*Docket No. 96-451; Submitted on the Record;
Issued May 27, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has more than a five percent permanent impairment of his right arm and a five percent impairment of his left arm for which he received a schedule award.

The Board has reviewed the case record and concludes that appellant has no more than a five percent impairment of the right arm and a five percent impairment of the left arm.

In the present case, the Office of Workers' Compensation Programs accepted appellant's occupational disease claim for bilateral wrist tendinitis. The Office later accepted the claim for bilateral carpal tunnel syndrome, left worse than right and surgery was performed on both hands. On October 3, 1995 the Office granted appellant a schedule award for a five percent permanent impairment of each arm.

In support of the request for a schedule award, the Office received a June 6, 1995 report from Dr. Eric J. Katz, appellant's treating physician and a Board-certified orthopedic surgeon. Dr. Katz indicated that there was an ulnar deviation to 20 percent bilaterally and a diminished flexion to 45 percent bilaterally. He, therefore, stated that appellant had a five percent impairment for each wrist. Dr. Katz also indicated that appellant had a three percent impairment to his left hand and that June 15, 1995 was the date of maximum medical improvement. Dr. Katz, however, indicated in his February 6, 1995 report that appellant could return to his regular work on February 9, 1995. He further stated on January 24 and February 6, 1995 that his neurologic examinations were intact. Dr. Katz diagnosed stenosing tenosynovitis, left thumb, on February 6, 1995 and on June 12, 1995 he diagnosed bilateral carpal tunnel syndrome and a trigger finger, left thumb. Consequently, he determined that appellant had a eight percent disability of the left wrist and a five percent partial disability of the right wrist. The Office did not accept appellant's claim for stenosing tenosynovitis, left thumb.

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulation,² set forth that schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment is to be determined. For consistent results and to ensure equal justice for all claimants, the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as a standard for determining the percentage of impairment.³

In obtaining medical evidence for schedule award purposes, the Office must obtain an evaluation by an attending physician which includes a detailed description of the impairment including, where applicable, the loss in degrees of motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation, or other pertinent description of the impairment. The description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.⁴ If the attending physician has provided a detailed description of the impairment, but has not properly evaluated the impairment pursuant to the A.M.A., *Guides*, the Office may request that an Office medical adviser review the case record and determine the degree of appellant's impairment utilizing the description provided by the attending physician and the A.M.A., *Guides*.⁵

In a September 24, 1995 report, the Office medical adviser applied the A.M.A., *Guides* to the measurements of impairment provided by Dr. Katz. The Office medical adviser properly noted that appellant was not entitled to a schedule award for his left trigger thumb or stenosing tenosynovitis of the left thumb because these conditions were not accepted. The Office medical adviser then relied on the A.M.A., *Guides* (4th ed.) to find that an ulnar deviation of 20 percent bilaterally would be graded as a 2 percent impairment to each wrist pursuant to figure 29, page 38. The Office medical adviser further stated that a diminished flexion of 45 percent bilaterally would be graded as a 3 percent impairment to each wrist pursuant to figure 26, page 38. The Office medical adviser, therefore, concluded that appellant had a five percent impairment to each upper extremity.

As the Office medical adviser properly utilized the description of appellant's impairment provided by Dr. Katz and the A.M.A., *Guides* to evaluate appellant's impairment, and there is no other medical evidence establishing that appellant has more than a five percent impairment to each upper extremity, the Office properly granted a schedule award for a five percent impairment to each upper extremity.

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

³ *Leisa D. Vassar*, 40 ECAB 1287 (1989).

⁴ *Joseph D. Lee*, 42 ECAB 172 (1990).

⁵ *Paul R. Evans, Jr.*, 44 ECAB 646 (1993).

The decision of the Office of Workers' Compensation Programs dated October 3, 1995 is affirmed.

Dated, Washington, D.C.
May 27, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member